Property Tax Reappraisal Committee

September 5, 2003
MACo Conference Room
2715 Skyview Drive, Helena, Montana

MINUTES

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file at the Department of Revenue. Exhibits for this meeting are available upon request.

COMMITTEE MEMBERS PRESENT

Rep. Ronald R. Devlin, Chair
Sen. Emily Stonington, Vice Chair
Sen. Greg Barkus
Sen. Robert R. Story, Jr.
Sen. Ken Toole
Rep. Rod Bitney
Rep. Gary Branae
Rep. Larry Cyr

COMMITTEE MEMBER EXCUSED

STAFF PRESENT

Dolores Cooney, Department of Revenue
Pete Fontana, Department of Revenue
Brad Simshaw, Department of Revenue
Jackie Williams, Department of Revenue
Christa Schoenfeld, Department of Revenue
Prudence Gildroy, Secretary

AGENDA & VISITORS

Agenda (ATTACHMENT #1)
Visitor's List (ATTACHMENT #2)

COMMITTEE ACTION

CALL TO ORDER AND ROLL CALL

The meeting was called to order by Sen. Emily Stonington, acting chair, at 9:00 a.m. and introductions were made.

Sen. Stonington stated she served eight years in the House and is in her first term in the Senate. She served on the Taxation Committee in all but the current session of the legislature. She indicated she had been through one full cycle of reappraisal and a couple of the crisis points with the issue.

Rep. Ron Devlin informed the committee he is in his second term and has served on the Taxation Committee in each session.

Sen. Ken Toole indicated he is serving his first term as a senator and served on the Senate Taxation Committee. He found the property tax system to be very confusing and stated it was a big topic of discussion and debate in the last session.

Rep. Bob Story served in the House on the Taxation Committee for eight years and two years in the Senate. He worked on most of the reappraisal bills that have come through the process in that time. He served on several interim committees on taxation. He thought the reappraisal issue is due to the diversity of property and the economy in Montana and felt it will be difficult to solve without making some major changes in the property tax system.

Rep. Rod Bitney stated his area is one of the fastest growing areas in terms of construction. As an area of diverse property, his area is very much impacted by reappraisal. He is currently serving his fourth term. He serves on the House Business and Labor Committee.

Rep. Larry Cyr indicated he was in his second term and that he served on House Taxation. Butte is the only place in the state where taxes might go down.

Rep. Gary Branae stated he was in his second term and served on House Taxation. He also served on an advisory council on property tax.

Sen. Greg Barkus introduced himself stating he is from Kalispell.

Sen. Stonington thought the crisis point is every time there is a reappraisal. In the last two reappraisal cycles the problem has been solved and the process has not meant huge tax increases. She didn't know what could be done with the diversity of property types. Agriculture can't be treated the same way as residential, utilities, or railroads. She asked the committee for ideas.

Rep. Devlin thought most of the discussion would settle on residential property tax. The Constitution requires a reappraisal. In the past, they have tried to maintain the status quo. No matter what is done during this interim, when the next reappraisal cycle finishes that legislature will have to deal with that policy decision. He thought the committee could look at the length of the reappraisal cycle, which is currently at six years. He thought they should consider the information provided by Brad Simshaw, Department of Revenue, showing what the effects of reappraisal are going to be.

Rep. Story advised in the last session they looked at what they could do to mitigate the new appraisal. The traditional fixes were for ninety percent of the people. Ten percent have extraordinary property and can't be fixed without changing the whole property tax structure in the state everywhere else that really doesn't have a problem. He thought protecting Class 4 residential from increases due to reappraisal creates problems in all the other classes. Residential property is appraised every six years and all the other classes are appraised annually. Residential property is a greater part of the total value of the state and they are paying less of the share of the property tax. The problem is in raising a certain number of dollars to run government services with property tax revenue. Until a way is found to reduce the dependence on the property tax, to raise more and more money off the property tax base creates problems because homes are the growing part of the property tax—either through inflation or new construction. The real issue has to do with the high value properties driven by out of state recreational interests. The value is driven up on folks that have been there and increases the market price. The market value of a house is only worth anything if it is being refinanced or sold, not if it is just being lived in. He thought the committee should see if there is something that can be done with valuation of houses that gets to what is a house worth to live in as opposed to what it is worth to sell. He thought it is the same issue that agriculture faced at some point in time when they decided to go from market value to production for agricultural land. To tax agricultural land at its market value would tax it out of existence. The same is being seen with residential property in certain places in Montana. The problem is whether to change the system for ninety percent of the people to fix the problems of ten percent. He thought there were options, and it is a political decision in the end. People might agree to some kind of an acquisitions system, or there could be a flat tax. The only reason to have a tax system is to collect revenue and it doesn't really make any difference what kind of system as long as enough revenue can be collected. There could be a flatter system for houses like what is done with automobiles. In the last interim they looked at just not taxing the land, since the problem is location. It can be done, but in the present system most of the land in the state under houses doesn't have a lot of value. He thought they should look at the six-year cycle. The longer the cycle goes, the larger the increase. It is hard to do a cycle that is much shorter since the legislature only meets every two years. A three-year cycle when the legislature only meets every two years doesn't work.

Sen. Toole thought the areas like the Flathead and Ravalli County are driving the politics. He was surprised to find the counties with the greatest increase were in rural eastern Montana. He assumed fairly small transactions drive the whole increase in those counties, but he wasn't sure that was the case. He wanted to understand if it is ten percent or five percent that have the problem. He wondered about the opposite end of the flat tax and using things like means testing to help the people who are income constrained and their property values are going up. He thought there should be a property tax system that is equitable and predictable. He worried about doing a lot of tinkering with the system. He recalled in the last session there was some conflict about having an equalized system or one with exemptions.

Sen. Barkus expressed his concern with predictability and the fairness issue. In the Gallatin Valley and in the Flathead he saw some unfair taxes on both the low side and the high side. He felt the concern of constituents was the predictability.

Sen. Stonington added another issue that concerned her was the implications for the other classes. The railroads and airlines, because of the four R's Act, have to be dealt with equitably compared to other classes of property. As the residential property is picking up more of the percentage of value and the percentage of taxation paid, the other classes are implicated. The reduction that was enacted in the business equipment tax will implicate the utilities, railroads and airlines. She thought they ought to be aware of that interaction and look at that as part of this study.

COMMITTEE BUSINESS

Sen. Toole nominated Rep. Devlin for Chairman and Sen. Barkus seconded the motion. The committee unanimously elected Rep. Ron Devlin as Chairman.

Chairman Devlin indicated the next order of business was the History of Reappraisal presentation.

(Tape 1 Side B)

Dolores Cooney, Department of Revenue, explained the structure of the present property tax and introduced Brad Simshaw and Pete Fontana of the department. She distributed the book *Property Tax Reappraisal Committee Background Information* to the committee which contained the IAAO (International Association of Assessment Officers) *Standard on Property Tax Policy* which gives an outline of an ideal property tax system and policy. It included *Exploring and Understanding Property Tax*, which details what happened with SB 461, and *The Biennial Report*. There was an article from the Wyoming Taxpayers Association. Wyoming is going through an interim study of the effects of reappraisal. Included was a report from the Wyoming Property Tax Interim Committee that was prepared by their Taxpayers Association.

Brad Simshaw, Department of Revenue, presented the History of Property Reappraisal--background material of the property tax and property tax revenue. Topics included:

- Taxes: Where do they come from and where do they go?
- When talking about taxes it is important to consider perspective and not to forget to associate taxes with services.
- A statement to Governor Ayers from the Board of Equalization in 1936 regarding the property tax.
- Article VII of the Montana Constitution.
- State Revenue Sources. Property tax is 5%.
- Total Expenditures. The largest expenditures are social services and education.

Sen. Toole asked if the 5% does not include units of government such as counties and school districts. Mr. Simshaw indicated it does not. The 5% is not the whole property tax picture but is just what the legislature gets to spend.

- Chart of state and local taxes from the point of view of the taxpayer. All property tax and fees total over $900 million a year.

- Property Taxes Levied by Taxing Jurisdiction.
- Taxes levied on the Montana Property Tax Bill. The legislature sets the policy. Local Governments then determine what is available.

Rep. Story asked if there was a $65 million increase in property tax revenue between FY 2002 and FY 2003. Mr. Simshaw indicated yes. Rep. Story asked if that was in any particular place or if it was just growth throughout the system. Mr. Simshaw advised the tax base hadn't changed much. There was some increase in local schools and miscellaneous districts. Sen. Stonington declared $40 million of it was in the local schools and the countywide schools. Sen. Toole commented this didn't mean that budgets increased that much and noted state support is dropping. Sen. Stonington said for local schools that is their source. The Universities are different. Sen. Toole asked if that is all they get for the schools. Mr. Simshaw said it represents mills levied by the counties. Since the tax base is relatively static, to have this much more in property tax revenues would indicate that mill levies are increasing. When there is more property, the only way to provide more services is to have larger mill levies. Chairman Devlin pointed out the increase in valuation and taxable value is greater due to increased mill levies statewide. Property taxes are being relied on to fund a lot of local government and schools. It is not natural growth of property value.

(Tape 2, Side A) Sen. Toole asked if local mills are picking up lost revenue that used to come from the state. Sen. Story said in terms of total dollars, state dollars have been increasing but not as fast as spending. The local mills are filling that difference in growth rate. The state contribution is growing at a slower rate than the total spending is growing.

Sen. Toole asked if the state share had been decreasing as a percentage. Sen. Story agreed but indicated that was by design in part. He noted taxpayers were not looking at their assessment but at the total tax bill. What is driving the extra dollars is mill levy increases. He asked Mr. Simshaw to find out how much of these increases were voted increases. Mr. Simshaw noted most of the property tax goes to education and acknowledged the increase in property tax was due to mill levies.

Sen. Stonington commented that the state sets the policy. I-105 contained the growth of expenditures for cities and counties and originally schools as well. Schools were exempted so schools are under a completely different policy constraint than cities and counties. Cities and counties feel the squeeze while schools just vote another levy. Cities and counties have gone to fees. Taxpayers vote on the fees, which go to their property tax bills, but the fees are not considered a mill levy. In terms of policy, she thought they ought to be thinking about that whole system.

Rep. Bitney asked about the correlation between the mill levies and new construction. Mr. Simshaw advised if the valuation remains constant and there is no new construction, the same mill levy would generate the same amount of revenue as the prior year while providing the same services as in the prior year. The legislature recently recognized inflation is involved. Mill levies are increased slightly to cover inflation. Mill levies can increase due to cost of services increasing. Local governments don't have to increase to half the rate of inflation, but can if they choose. Using an example of 100 homes and with the addition of ten new units and the same mill levy, there will be 10% more property tax revenue. From the local government point of view, they will have to generate the same services. The bottom line total looks like a large increase, but it is a large increase because there is a 10% increase in services. 15-10-420, MCA says you can generate the same amount of property tax as before plus cover inflation if you want. That takes care of existing property (the original 100 homes). Limiting property tax revenues would hurt services, but limiting the mills won't. Rep. Bitney asked if the taxes increase or does the revenue increase. Mr. Simshaw said the revenue will increase overall.

Sen. Toole asked if inflation is figured into the charts. Mr. Simshaw indicated those are actual dollars. If there is an increase in property tax dollars from new property, existing property is appreciating and mill levies are increasing.

Gordon Morris, Montana Association of Counties, commented on Rep. Bitney's question. When a county calculates its maximum levy authority in any fiscal year, they start with the dollars they got in FY 2003. There is a growth factor in the statute. The county takes out the value for new construction and calculates the value of the mill absent new construction and adjusted for deletions. Property is coming on the rolls and there is property going off the rolls. From a county perspective or any tax jurisdiction perspective, they are entitled to get full dollar value from any new construction on the rolls in addition to getting the same dollar from existing property. The county gets new revenue, and doesn't generate any more mills.

Mr. Simshaw added property taxes can be increased to cover reimbursement for property tax reduction on Class A business equipment. In 1989, the legislature reduced the rates and there was about a $20 million reduction to local governments, which was reimbursed in HB 20. In 1995, SB 417 reduced the rate further with another reduction to local governments for which they were reimbursed fully. In 1999 the legislature decided to phase out those reimbursements and there was about a $1.2 million reduction a year to local governments. In five years, those will be completely gone. That is included in the calculation of the local government. He noted the same thing happened when vehicles went to a flat rate—there was a loss in revenue to local governments. They were allowed to make that up in property tax. If local governments wanted to maintain the same revenue flow, they had to increase mill levies.

Sen. Story advised if property is lost, then the mill increase is calculated to get that revenue back. That is then applied to the new property. Generally, that is not a large factor, but it would be if they lost a really large taxpayer in a particular jurisdiction. The local government could recoup all of that lost revenue on the existing taxpayers if they chose to under current law. New property is not netted against lost property in the formula unless they want to.

Mr. Simshaw noted the department is charged in the Constitution to value property fairly. That is why they are on an ad valorem system and reappraise every six years with a goal of being sure property is valued at current market value.

Mr. Simshaw continued his presentation with Functions of Property Taxation.

- break- 10:15 a.m. -
- reconvene- 10:30 a.m. -

Rep. Devlin addressed the comments of Sen. Story about holding down property valuations in one area and it spreading across all of the others. When Gordon Morris was talking about how the county computes their mill levy, it is a dollar amount not a mill levy amount. If the business equipment tax or something else starts to go down, that particular piece of property isn't going to raise that much more money. The mills are going to increase on all the other classes of property. In his area, where they basically have Class 3 and Class 4, if they hold the tax valuation in Class 4, it will spread over to Class 3 with increased mill levies. They are not necessarily voted on levies. That is just to maintain equality. He said to be aware of that when deciding to hold down rates on a certain class.

Pete Fontana, Department of Revenue, presented the Property Appraisal Process. The starting factor is the appraised value. The assumption that if the appraised value is held down, the tax dollars will not go up or down is not correct. The appraised value is just a starting factor. The legislature has made some adjustments to those numbers with exemptions and reductions in tax rate and the phase-up of the property values and reappraisal cycle. An appraisal is a judgment or estimation of value as of a specific date determined by the legislature. The department conducts the reappraisal and sets a value of each property in the state. The department is not only charged with valuing land and improvements but also with valuing business personal property. An appraisal can also be done independently. A home is generally one's largest single purchase and asset.
He explained the five levels of certified appraisers. One of the key ingredients of any appraisal process is to define market areas. *(Tape 2, Side B)* He explained the market areas defined in Montana and the three valuation methods, which included market or comparable sales, cost approach or income approach. An example of the market approach using a subject home and three comparable homes and how the adjusted sale price is determined was explained.
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Sen. Barkus questioned the comparison. Mr. Fontana indicated the first adjustment made in any appraisal assignment is time adjustment. Additional variables are involved.

Ronda Carpenter, Cascade County, clarified that the adjusted sales price is how the buildings relate to the one being appraised, not how they relate to each other. Mr. Fontana agreed the subject property is never adjusted to the comparable; the comparable is adjusted to what the subject looks like.

Rep. Bitney asked about landscaping. Mr. Fontana advised landscaping is not something they pick up. When the property sells, and property A is fully landscaped and property B has no landscaping, and property A sells for $100,000 and property B sells for $80,000, there is a catch-all category called CDU—condition, desirability and utility. This is also a variable that adjusts for value. There are 20 different variables in any model. He went on to explain the cost approach. It is the replacement cost of the home, less the depreciation, plus the land value.

Chairman Devlin stated the taxpayer can come in and ask for either one of these during the appeal process. When the department does the appraisal, they rely on the market model almost exclusively. Mr. Fontana replied it depends on the area and what type of property. If they are valuing a farmstead with 25-30 acres, there might not be a lot of properties like the model so the cost approach might be better. In areas where there is a limited market, the cost approach is better. The market approach is the preferred method of valuation 85-90% of the time. The cost approach is somewhat difficult to apply to older homes because it's very difficult to estimate depreciation.

Chairman Devlin indicated when he was on the county tax appeal board, it was almost always a market model. The comparables were very seldom from Terry, but included a large area. He never saw the cost approach used by the department. Mr. Fontana advised cost depreciation is better in areas of limited market. He indicated they depend on the cost approach quite a bit in eastern Montana because of the limited number of sales.

Sen. Toole asked if a property sold six months before is used as a comparable. He wondered over how much time a property became less valuable. Mr. Fontana replied in the mass appraisal process they do use it as a comparable. If it sold three times in the cycle, it is likely the comparable becomes the house itself. Over time when it sells and there is remodeling, in a fee appraisal situation, this sale would not be used as a comparable. Sen. Toole asked why. Mr. Fontana said the federal guidelines restrict that.

Rep. Bitney asked about two identical homes with one in the city and one in the country. If the country home required $50,000 more for the infrastructure, he wondered how those values would be contrasted. Mr. Fontana replied when they build a model or a market database, it is built on homogenous market areas. They don't want to compare a house built in the city of Helena to one built in the valley—they will use two different models. In the example where money was spent getting utilities to the property, they would look at similar properties in that same situation that sold and compare them.

(Tape 3 Side A) Mr. Fontana continued to explain the cost approach. Sen. Story asked about the land value as apparently location is being used to value the structure and then the land is added in. He wondered if that was a double whammy on the land. Mr. Fontana said the number was just the replacement cost of all the improvements. Land valuation in any appraisal assignment, whether mass appraisal or single property appraisal, is appraised independently of improvements as if vacant and ready for development. At the department they take vacant land sales and develop land tables to value the land independently of the structures. In the sales comparison approach the total sale price includes the land and the improvements. The sale price dictates what the location, land, improvements and condition of the property are. In the cost approach the land value has to be independently assigned. That is done by creating land valuation

tables that tell what land sells for in a given area. Sen. Story said he asked the question because Mr. Fontana had indicated location had value and he thought that would be in the land. Mr. Fontana indicated when they are looking at land sales they want to make sure they are unimproved and ready for development. The desirability of location once the house is there with all the utilities is not just the land value; it is the set-up location on that site.

Mr. Fontana explained the income approach is mostly used in the valuation of income property. It is based on the anticipation of future benefits involving the property. The net operating income is divided by an appropriate cap rate to arrive at a market value. The cap rate is the return on investor's money. Commercial properties do not readily sell in Montana. Sen. Toole asked about the total life of the asset. Mr. Fontana said that would be the recapture rate and that would be up to the investor. Sen. Toole asked if the potential gross income is over the life of the asset. Mr. Fontana said they are capitalizing an annual income. He then addressed mass vs. single property appraisal. Mass appraisal is efficient, effective and financially feasible. He described the appraisal process—discovery, date collection and analysis. They look at square footage, condition and location. He explained the reconciliation of approaches to value. The appraiser considers the quality of the data and the values produced, and determines if it will be valued by the cost approach or the market approach.

Sen. Stonington addressed the different types of appraisals, one type being an appraisal for refinancing. The tax appraisal is a different value, and the sale appraisal is a third value. Mr. Fontana advised the refinancing effort provided the third leg of that discrepancy. What people are doing in a refinancing effort is trying to refinance debt into their home. If they can have their house at 80% of what they're borrowing, they don't have to pay the private mortgage insurance. There are some appraisers that will enhance the value to help their client avoid private mortgage insurance. He indicated that is not appropriate and shouldn't be done. The house price is negotiated by a willing seller and a willing buyer. The negotiated price might be $80,000 and the asking price is $82,000. It is almost arrogant for an appraiser to say he knows more about the market than the market itself. As an appraiser he said he couldn't argue with the market. The tax appraisal is perceived as lower because the farther away from the base year toward the next reappraisal those values become less accurate with the current market. He said he would guarantee the reappraisal value and the market value are currently within 10%. He described the scenario if the aluminum plant shut down in Columbia Falls and the impact on the housing market.

Mr. Fontana described the equalization of value of property classes. Reappraisals are important in order to achieve equalization. Another part of his job is quality assurance and ensuring homes are not overvalued or undervalued. The chief measure of assessment quality is the ratio study. He described the various statistical measures used.

Sen. Story asked about the assessment data saying it was his understanding that for the next six years everything is rolled back to what it would have been at that date. Mr. Fontana advised they have a market model built from sales in 2000 and 2001. With a newer house, they will adjust for age. But they would actually do a retroactive appraisal for a new house to January 2002. Their cost tables are built to that year. The longer the appraisal cycle, the more dramatic the increase is in appraised values. As the economy goes up, they are still using sales that could be eight or ten years old. Then they build new models, and all of a sudden the values go way up. Sen. Story asked about people who just built a house and get their new appraisal who wonder how their house could have gone up $10,000 in value when it was just built. They don't understand it was rolled back. Mr. Fontana said if the cost approach is done on it, they are using a cost table they built in 2001. Their cost table is historic also; it is frozen until the next reappraisal cycle. They don't update those market models or cost tables. Sen. Story said they can't because they have to equalize. Mr. Fontana said essentially they are equalizing because they are rolling back, but they can't do selective reappraisal. He said it is difficult for some people to grasp the concept of the cycles. Three-year cycles don't work because they would be halfway through a legislative session. The shorter the cycle, the less the less impact there is and the less dramatic increase there is. That is true in any appraisal process.

Gordon Morris noted Mr. Fontana had been focused on Class 4 residential. He wondered what distinction could be made between the reappraisal process for Class 4 residential from commercial property and from any other property subject to cyclical review, excluding 4R property, productive land, timber and agricultural land, and all the other property that is subject to reappraisal. *(Tape 4, Side A)* Sen. Story asked what the law requires as far as assessment and if it requires that it be assessed at market value. He wondered what the constitution required. Mr. Fontana advised Title 15 requires that all properties be appraised at 100% of market value. It is specifically related to Class 4 property. Sen. Story asked if it is required by law and Mr. Fontana affirmed it is. Sen. Story suggested they have this discussion when they look at different methods of value such as acquisition value. He wondered if it required constitutional language to go there or if that is something that could be done in statute. The constitution just requires assessment and equalization. Mr. Fontana said the statute requires 100% of market value. He indicated the legislature can do whatever they want with that. The struggle with the acquisition is equalizing value if there are these disparate differences of value amongst similar properties. The issue is not that there is a requirement to be at market value and have a constitutional amendment; he thought the issue is the equalization process and the equity.

Ms. Cooney asked the committee if they would like further discussion on that issue in the future, and whether they would like an attorney at future meetings. Sen. Story suggested Mr. Greg Petesch, Legislative Counsel, or one of the department attorneys, for a brief discussion.

Chairman Devlin referred to his time on a tax appeal board. Typically, the department would decide the value of the property and the taxpayer would use the cost approach ending up with a totally different figure. They had one commercial property where they used the income approach, which cut the owner's property tax almost in half. Property owners have the right, if they don't like the valuation, to come in and say the market model was used and they want to use the cost approach. There might be a difference of $40,000 and it has to be reconciled.

Mr. Fontana admitted the challenge of valuing property in rural areas in Montana is a greater challenge than in an urban center. It is a lot more difficult to value properties where there are a limited number of sales. In Helena, there are 2800 to 2900 sales in the area available for any given house they decide they want to value. In Chairman Devlin's area, he didn't think there were 100. There is more difference of opinion in rural areas and a valuation is more difficult to support from the taxpayer's standpoint and the department's standpoint in any appraisal cycle.

Mr. Simshaw thanked Mr. Morris for the question. He addressed the other classes of property. The legislature can take types of property and put them in different classes. Within those different classes of property, it can subject that property to different tax rates. He indicated there is a good description on page 42 of the narrative. There are now eleven classes of property as Class 11 and class 6 are now gone. There is also a description on page 58 of the *Biennial Report*. Mine Net Proceeds are on metal mining operations in the state and at one time included oil and gas proceeds. Oil and gas were removed in 1989. Coal also was part of the property tax system. Being part of the property tax system means it was subject to mill levies. It was part of local and state government's tax base. The rate for gross proceeds metal mines is 3% and 100% for net proceeds. Class 1 and 2 value is subject to definitions as far as what the products are to get to the market value. There are deletions that can be removed from the value to get to a final market value. They take the tax rates times that market value to get a taxable value. He thought it a matter of time before these are removed from the tax base also. Class 3 is Agricultural Land, which is subject to cyclical reappraisal, but its market value is based on productive capacity. Taxable value of agricultural land is $138 million or about 8% of the tax base of the state. There are different classes of agricultural land and land that can produce more would have a higher productive capacity.

Sen. Stonington asked him to talk about the dilemma with the non-qualified agricultural land. Mr. Simshaw indicated Class 3 Agricultural Land is historically driven on when does a parcel of land become agricultural and when does it not. For purposes of taxation, the question is when is it in Class 3 and when is it not. Two acres with a horse is residential land. It will be valued at what the two acres could be sold for—the market value. Anything over twenty acres and less than 160 acres that meets eligibility guidelines outlined in administrative rule, is in Class 3, classified as non-qualified agricultural land. That means it is not an active producing agricultural holding. It is probably grazing land. That is why parcels are often sold as 20.1 acres because it is then taxed as agricultural land. If an owner doesn't file a form with the Department of Revenue for anything between 20 and 160 acres, they are subject to seven times the tax rate for agricultural land. The benefit of getting into Class 3 is being taxed on productive capacity and not true market value. If you paid $50,000 for the 20.1 acres you will be taxed as non-qualified. The tax rate for that is 24%. The market value for Class 4 might be $2000 per acre and for Class 3 it drops down to about $800 per acre. He indicated the line had to be drawn someplace. That is why there is a defining line between land whether it's residential, commercial, industrial or agricultural.

Rep. Bitney asked about land under twenty acres. Mr. Simshaw said there are many agricultural operations under twenty acres such as tree farms and orchards. They can still qualify as agricultural land with an income test. They have to be able to show they produce $1500.

Sen. Barkus asked about a property owner on Whitefish or Flathead Lake buying 30 acres behind his property. He asked if that automatically moves that owner from residential to agricultural. Mr. Fontana replied when it's called non-qualified agricultural, the very first acre is at market value as a home site. The remaining acres are the G-3 grade. The value is on the one-acre building site. The one acre on the lake might be valued at $100,000. The remaining acres might be $2000. The difference between true agricultural status and non-qualified agricultural status is in the non-qualified agricultural status the first acre is at market value. In true agricultural status the first acre is at the highest irrigated rate. If the owner at Flathead Lake actually farms the 30 acres, his first acre would be $900. His neighbor's first acre might be at $100,000 if it's non-qualified.

Sen. Stonington said for the first acre the comparisons are on one-acre sales. Mr. Fontana said they could be. Sales are looked at on value influencing characteristics such as 10th Avenue South in Great Falls, Grand Avenue in Billings, Flathead Lake or anything that influences value. If someone buys a 10-acre piece of land on Flathead Lake and pays $800,000 and someone buys a five-acre piece next door for $800,000, they might have been buying shoreline or lake frontage. They really bought themselves a site to build on. The department tries to build a model on what the first acre is worth.

Chairman. Devlin asked about ½ acre home sites with agricultural land. Mr. Fontana indicated that changed to one acre for Class 3. Sen. Story said that was changed in the late 1980s when they were going to decide to tax wells and septics. That was delayed, and then they came up with the one-acre that was supposed to take in all the improvements.

Mr. Fontana said they had to be careful when valuing these properties on value influencing characteristics. It doesn't have to be a lake; it can be a view lot at Big Sky or the Iron Horse in Kalispell. Those lots sell for about the same thing and they're all different sizes.

Sen. Barkus advised there is an island on Flathead Lake that is 20.4 acres. It is appraised at $78,000. The owner paid $1 million for the property and has put a $25 million house on it. Mr. Fontana said he read about that. He said he had never looked at that property and maybe it should be looked at. There should be some analysis of what the building site was worth. Mr. Simshaw added that is a case of forestland.

Chairman Devlin said in that example where there is a very expensive structure, they still get full value for that structure. The difference is the valuation of the land.

Mr. Simshaw continued the discussion about agricultural land. It is appraised every six years or whenever Class 4 residential commercial property is reappraised, but it is reappraised on the basis of productive capacity. Class 5 includes pollution control equipment and also electric co-ops and telephone co-ops. This property is appraised every year and has a 3% tax rate. Class 4 property is at a 3.4% tax rate this year but subject to some exemptions—a homestead exemption of 31%. Commercial property has an exemption of 13% that is taken right off the assessed value for tax purposes to begin with. Livestock was phased out beginning in tax year 2001. There was some other equipment that was in livestock—malted barley facilities was in class 6 and is now at 6% and that might have been one of the reasons why the facility came to Great Falls. Cascade and Beaverhead counties have property in Class 7—Non-Centrally Assessed Public Utilities. Of the \$1.718 billion of total taxable value, there is only \$216,000 in this class. It is taxed at 8%. Class 8, Business Personal Property, is taxed at 3% and is annually reappraised. The taxpayer is sent a form annually. Currently there is \$118 million in taxable value in this property. If particular economic conditions and measures are met, this tax rate will phase down eventually to 0%. This is about 7% of the tax base. There is an interconnection between the valuation and the policy the legislature sets, taxable value, mill levies and services that local governments and the state must provide. If this class of property goes down to zero, it is a 7% decline in the tax base. If they want to generate the same amount of tax revenue as before, the mill levy must increase 7%. Decisions by past legislatures were to reimburse local governments for that type of tax loss. The money for the current reimbursements comes from the state general fund. If there is no reimbursement, local governments will have to decide whether to keep the same amount of services. If they do, they will have to raise the mill levy. Class 9, 12 and 13 are centrally assessed properties that cross county lines. Class 9 includes non-electric generation property and electrical utilities as well as pipelines and electrical transmission. These values are assessed by appraisers in Helena. The tax rate on Class 9 is 12%. That is a policy decision by a past legislature and the reason was the utilities were regulated. They were guaranteed a profit and they could pay their taxes. Railroads and Airline Property is Class 10 and they are centrally assessed. The valuation is based on market value. For railroad and airline property, there are federal statues that restrict the legislature as far as the tax rate. The tax rate is an average of the commercial and industrial tax rate and is currently 4%. Class 13 is telecommunications. Electrical generation property dropped from 12% to 6% in tax year 2000—a policy choice made by the legislature. Some new taxes have been applied to these properties that are not property taxes. Forest Land, Class 10, is similar to agricultural land. This is valued on a productive capacity and the value was switched not long ago from what the value of the standing timber was to what the forestland can produce. There are four or five areas in the state with different rates depending on location. Work being done by satellite has helped value forestland. He reiterated that once they set property into these different classes, the legislature can assign different tax rates to these classes of property even though most of this is taxed on a market value basis.

Mr. Morris noted there is a distinction to be made between centrally assessed property and locally assessed property. Locally assessed is under county jurisdiction, and the department has identified the value for it. Centrally assessed property is spread all over the state of Montana and then the value per county is allocated back by the department. Each county, using the value that's reallocated back to them, applies their local levies to it. That always seemed troublesome from a lot of perspectives. He thought if they took the centrally assessed property out of the local tax base and applied a statewide uniform property tax against it that was revenue neutral in terms of their total tax bill today, and then allocated that money back to the local jurisdictions including schools, the playing field would be leveled. He questioned paying the equivalent in Rosebud County of 100 mills whereas in Great Falls they pay 460 mills on their centrally assessed property. He said that goes on throughout the entire state. That applies to all property that has multi-county presence. The value is allocated back and then taxed based upon the locally determined mill levy.

Mary Whittinghill, Montana Taxpayers Association, asked how it could be allocated back. (*Tape 4, Side B)* Mr. Morris said they could bring it into the entitlement. Mr. Simshaw indicated with the current system, they will see some effects of what Mr. Morris addressed. There had been a couple of movements such as the removal of oil and gas from the property tax base system. It didn't quite go wholly to what Mr. Morris was suggesting, but they are off the system. He described rail car line taxes on companies that own boxcars that they lease out to railroad companies. They are, in a sense, business equipment and they are appraised like centrally assessed companies. They are given a market value and a Class 12 tax rate is applied to that market value and then a statewide average commercial mill levy. They pay those taxes and it goes to the state general fund.

Sen. Toole commented the proceeds tax is really an income tax. Mr. Simshaw affirmed that. He indicated costs are removed and it is the basis for a market value applied tax rate. It is income but its revenue flows to schools.

Mr. Simshaw then gave a detailed explanation of two charts—the calculation of property tax in tax year 2003 compared to the calculation of property tax in 1993. The explanation included the phase up of the reappraisal that the legislature passed to mitigate the current reappraisal. Next he described the three components of the property tax bill. He explained the third component, which is the mill levy, and the charts on page 47-50 of the narrative.

Sen. Toole noted the market valuation has gone up significantly. Mr. Simshaw affirmed between the market value and the taxable value, something has to be going on. There have been tax rate reductions--Class 8 used to be at 9% and Class 13 property was at 12% and is now at 6%. For Class 4 residential property there is a 31% automatic exemption. The tax base hasn't changed much, but there have been tax rate changes. Something does have to go on to have a large increase in market value yet have the tax base remain exactly the same. Something else has to go on to have the tax base remain exactly the same but have the total taxes collected increase 38% over a nine year period. That is about a 3.69% annual average increase. He termed that not much more than inflation. Some places that are dependent on property taxes have been asked to generate services from the same tax base this year as they did in 1993.

Sen. Story commented between 1993 and 2002 there were big rate reductions in business equipment which, until they were started to be phased out, were replaced with general fund money. The 31% exemption took a bunch out, as well as the rate reductions. A lot of taxable value was taken out of the system in 1999. A lot of taxable value was taken out of residential in SB 184, the homeowner's tax deduction—more than was revenue neutral. Part of it got eaten back up in mill levy increases because it wasn't reimbursed. Livestock came off and that was reimbursed, but those all take the taxable value down. What doesn't show was the money that the state put back in to the reimbursement mechanism to pick up that slack. There is another $70 million in local government spending that isn't accounted for in the chart because of the reimbursement.

Mr. Simshaw said that could be looked at as some of the services that are being provided are now being provided with $75 million of state money at the local level. This isn't quite the same amount of services. Those are things that need to be investigated rather than just looking at bottom lines.

Mr. Simshaw explained a chart showing an average mill levy over the last four years for different funds within the counties and different jurisdictions. Mill levies are increasing. The chart showed that in tax year 1999 to tax year 2000, there was 6% less property tax dollars collected. That was what Sen. Story was saying. That is the time when there were huge reductions in some of the tax rates and the start of a reimbursement program in SB 184 which allowed the local governments to not have to compensate to keep their revenue flow going.

Sen. Story said the other thing that was done in SB 184 in 1999 was to take the cap off of I-105. It allowed some float and allowed votes. That is why he asked if there was some way of breaking out how much of these increases were voted. A lot of them were voted levies; they aren't things that commissioners or school boards did. They put it out to the taxpayers and those people that showed up voted for the increases. The increases are somewhat self-inflicted. Mr. Simshaw agreed. In a local government study three or four years ago, they tried to find the relationship between tax bases and mill levies. In the county with the Colstrip power plants, there is a low mill levy. If there is a lower than average tax base, there must be a higher mill levy to generate the same amount of money as somebody with a higher tax base. There was a correlation between tax base and mill levy for Colstrip. Beyond that, they didn't find that those with a below average tax base have higher mill levies and there really wasn't much of a correlation there. If there wasn't, that means something else is going on that sets the mill levies where they are besides just the tax base. He thought a lot of that was regional differences and the culture of the taxpayers. Some places will vote for mill levies. Missoula County has mill levies for parks and open spaces.

(Tape 5, Side A) Mr. Simshaw continued the comparison between counties. He explained Table 8 on page 49.

Chairman Devlin asked if the chart doesn't include cities. He recalled that in Custer County in Miles City by the time they get to the city mill levy they are at over 700 mills. Mr. Simshaw pointed out the next chart, Table 9 on page 50. He said it brings up their toughest challenge as legislators and policy makers. Any time they want to make some major reform, somebody's taxes change and there are winners and losers making it very difficult to make a choice. Even if they doubled Rosebud County's property taxes, they are still below the statewide average. He continued to explain Table 9. He pointed out that Billings, Great Falls, and Missoula have the highest tax bases, but number four is Colstrip. The mill levies range from a high of 1009 for Westby to a low of 213 for Colstrip. The committee discussed the possible reasons for the high mill level in Westby, concluding that there may have been a one-time voter approved levy. Mr. Simshaw indicated Colstrip has that low mill levy because they can.

Mr. Simshaw passed out and explained a comparison done by the Minnesota Taxpayer's Association. It compares property tax liability in the 50 states and the District of Columbia. *(Exhibit 1)* Montana is Number 32 on the list. The information from Montana came from his office. They were asked to calculate the property tax in the largest city; otherwise he would have chosen Colstrip. If he had, Montana would fall to 48 or 49. If he chose Westby, Montana would rank 15. He noted there are a lot of qualifiers when looking at rankings like this.

Sen. Story asked why the ranking moves when going from a $70,000 to a $150,000 home. Mr. Simshaw advised in some states fixtures are included in calculations. There may be homestead exemptions that kick in at different levels in some of these states. In Minnesota, they have a graduated tax rate for property.

Ms. Cooney offered that in the Wyoming Property Tax Interim Study, the appendix addresses different exemptions in other states as well as the different classes.

- recess 12: 40 p.m. -
- reconvene 1:20 p.m. –

Rep. Devlin indicated they needed to elect a vice-chair.

Sen. Toole nominated Sen. Stonington for Vice-Chair. The vote was unanimous.

Ms. Cooney guided the committee through the process of filling out their vouchers. Chairman Devlin advised they keep in mind any areas they want to concentrate on so that when they have another meeting they can make sure the personnel are there to go over the different areas of interest the committee decides they want to look into.

Dave Bohyer, Research Director, Legislative Services Division, presented a History of Property Reappraisal. He presented a chart that showed that as a percentage of all taxes collected, property taxes have gone down since 1972. Taxes as a percentage of personal income kept pace with inflation. Personal income has far outstripped the changes in taxes as a percentage of personal income. The chart doesn't show the changes in population.

Chairman Devlin asked if the information is included in their handouts, and Mr. Bohyer indicated the charts would be available.

Sen. Barkus commented the deceptive part of the graph is the percentage of income is going up faster than the CPI. The actual taxes paid by Montanans are going up faster than the CPI. Mr. Bohyer contended taxes are not going up faster than the CPI. Sen. Barkus said personal income is at an index of 72 and the percentage of personal income is maintained around nine or ten percent. Nine or ten percent of 72 is 7.2%. The CPI is at 4.2. The percentage of income is staying stagnant but income is going up. Mr. Bohyer agreed income is going up but the income shows both the income for individuals and the additional number of individuals.

Sen. Story said the first line is taxes related to personal income. As Sen. Barkus pointed out, that line shows something different than the other two lines. If taxes are constantly ten percent of personal income and personal income is increasing faster than inflation, if that is graphed using different axis's that line would mirror the green line because it is ten percent of the green one. Mr. Bohyer advised a later chart would expand on that issue. He presented a chart of Assessed/Market Value by Property Type. Market value has continued to go up, but the taxable value to the state has remained fairly constant, particularly when looked at in relationship to the market value. Another chart he explained was Taxable Value by Property Type—which types of property make up the property tax base. They've gone to from nine or ten classes of property up to as many as twenty-two. Now it is back to eleven. Class 4 property made up about 20% of the property tax base in 1972. Agriculture and timberland made up about 50%. Other types of property made up the rest. In a ten-year period, homes and businesses have gone up to almost 40%. Over the next ten years, real property went up to 58%. By 2003, Class 4 property makes up 63% of the property tax base. He indicated this is why they are hearing from homeowners. When the property tax base is looked at in terms of taxable value, there was a similar trend. *(Tape 5, Side B)* By 2003, the taxable value is in Class 4 property—homes and main street businesses. Utilities make up almost a quarter. Most of the time, property taxes paid by the utilities are just a pass-through. Homeowners and businesses are paying those property taxes as well. He presented a chart of the share of actual taxes paid by property type. These were taxes paid on property on which mills are levied. That had to be done because in the early 1990s they exempted natural resource property from mill levies, and instead put flat rates on oil, natural gas and coal. That made a big difference, and there were some notable shifts. There has been a decline in agricultural and timberland as well as in livestock.

Sen. Story asked if the dollar amounts are on the charts. He said it needed to be remembered that it's the percentage of the whole pie and the pie has changed. Residential may have gone down in percentage, but may be paying as much or more in dollars. Mr. Bohyer replied they paid \$66 million in 1972 and by 1982 it was \$141 million. There are more residences and on those residences the owners are paying more property tax. By 1992, Class 4 property was up to 50% of the actual taxes paid. Everything else benefited with Class 4 property picking up the tab. Utilities have gone down slightly and proceeds have almost disappeared. That is mostly because they were taken off the tax rolls. Agriculture and timber is about 8% and livestock is gone. He explained a chart of the share of property tax revenue by the government entity that receives them and the changes over time. By 1992, there had been significant changes in the way schools are funded. With the school funding changes and the increase in statewide levies, money that had previously gone directly to the school districts was now being siphoned off, given to the state, put into a pot and then doled back out to the school districts on the equalization formula. By 2003, the state and schools were receiving about three out of five property tax dollars. Cities and counties stay about the same and miscellaneous districts continue to go up. There are more and more districts created and part of the reason was I-105. A new district has to be voted in and typically has a mill levy that goes with it. He thought it curious that in 1997 when they last did this study, the state was picking up $196 million in property tax revenue. Something happened between 1997 and 2003 that resulted in a $21 million reduction in the amount of property taxes the state picked up.

Rep. Bitney asked him to compare the demographics over the last census. Public ANB went down about 10,000 and population grew about 100,000. There have been a substantial number of non-resident expensive homes built. He presumed if there are 100,000 more people over the last decade, and 50,000 to 75,000 new homes, a lot of them are high-end homes. There are more people, a wealthier demographic and yet a lot of people with children in K-12 either left the state or maybe a small percentage went into private schools or home schools. Mr. Bohyer said there's a combination of all that. There has been an influx of out-of-state people, people with money and people who are willing to pay higher prices for existing property and to build new property at the higher end. Up until recent years, people were having fewer children per family and that's one of the reasons there are fewer students in the schools. Another reason is home schools and private schools. Rep. Bitney suspected the largest exodus is just parents of those children leaving the state because of resource industry jobs shifting downward. Mr. Bohyer said he couldn't tell them who had actually left the state. He didn't know if those demographics have been done.

Mr. Bohyer presented a chart of statewide taxable value and revenue for all government. What happens with valuations has a considerable impact on what happens to the actual property tax collections. Another chart showed Montana property tax revenue—actual and adjusted for inflation. The revenue goes to pay for the same types of services as 30 years ago, but there are 200,000 more people. The burden for those services has either been shifted from the local governments to the state, or local governments don't do some of the things they did thirty years ago. There has been a fairly sizeable shift in the cost for schools that has gone from the local governments up to the state. That's been picked up largely by income tax revenue. Schools are the largest consumer of property tax dollars. In 1987 when I-105 was first passed, schools collected about 60% of all property tax dollars. That went down as the legislature responded to I-105, the decision on school funding, etc. By 1997, it was back up to almost 60%. Cities and counties used to get about 45% of their revenue from property taxes and that has been declining steadily. They have reverted to fees for services, grants, and revenue sharing. He presented a chart on K-12 spending and K-12 property tax revenue. Another chart showed commercial and residential taxable value as a percentage of Class 4. Taxable value is basically the same for the last 15 years. He explained a chart of residential and commercial property taxes, personal income, per capita personal income and inflation. Income is going up, per capita is going up, business and commercial property taxes are going up, but homeowner's taxes are really being felt, according to Mr. Bohyer.

Rep. Bitney asked if the dramatic increase of 110% over that period of time was just property tax or also mill levies. Mr. Bohyer said it is a combination of levy changes, reappraisals, or perhaps more residences being built at a faster rate than commercial property. In Chairman Devlin's area versus Sen. Barkus or Rep. Bitney's area the difference is huge. Sen. Story's area is beginning to see some of those high-end homes. Higher end homes are often being built on creeks, small lakes or anything that's live water.

Rep. Story asked about the drop in 1999-2000. Mr. Simshaw advised part of that was by design. In 1999, the 1999 legislature in responded to the 1997 solution, which was a 2% phase up. They knew that wasn't going to work and the courts would have a problem with that. To mitigate the appraisal it was decided to decrease overall residential property taxes by 5 to 7% overall.

Chairman Devlin thought one of the reasons there is a decline in the revenue is they did something that changed the valuations, but also they had a surplus of income tax dollars. They gave reimbursements to the counties during that time period so the counties did not have to put extra mill levies to get their property tax dollars up. When those reimbursals stopped, then mill levies increased and the reliance on property taxes came back for local governments.

Mr. Bohyer advised keeping in mind the trigger on the business equipment tax. It looks like its not going to kick in, but if it does up to 15% will have to be made up by the rest of the property taxpayers. To the extent that Class 4 is 60% or more of that, it could be a large hit to those taxpayers. *(Tape 6, Side A)*

Chairman Devlin referred to a form that counties use for the determination of tax revenue and mill levy limitations under section 15-20-420, MCA. *(Exhibit 2)* Mr. Morris said there is an information sheet with it and he noted this calculation results in the maximum property tax liability that the county can impose on their residents. The same is true for the cities. Chairman Devlin said they do this after they receive the certification from the department. Mr. Morris explained the form and maintained no county should be making a mistake in terms of what their ultimate authority is for taxation purposes.

Sen. Story asked how to deal with taxes paid under protest or that don't show up when calculations are made. Mr. Morris advised delinquent taxes can't be anticipated. On an annual basis anywhere from seven to eleven percent of the property taxes will be paid under protest or go delinquent. Soil conservation districts anticipate their delinquency rate when they calculate their taxes needed.

Chairman Devlin asked for public comment.

Neil Helga of the The Montana Residents for Fair Property Taxation conveyed property tax reappraisal is much more than just an academic exercise. It is an important opportunity outside the contentions of the legislative session to study and seek a long term solution to Montana's property tax crisis. Members of the committee were mailed a report from the organization that detailed the inequities that are being created under the current system and the pressures that are forcing the sale of heritage properties by long time residents. It urges this committee to make property tax predictable for all Montana residents. They firmly believe that if you give this data to any legislative or constitutional attorney, they will confirm the system is in trouble and must be changed. If not, it will then be changed by the courts, which would be unfortunate. They commended the efforts of the committee and offered their resources.

Chairman Devlin requested the committee set a meeting date and agenda items. Ms. Cooney advised this committee and the InterimTax Study Committee together were appropriated $60,000. They are charged to meet together once every six months at least. Other than that it isn't described in the charge how often the committee should meet.

Sen. Story asked what a meeting is costing. Mr. Bohyer advised a legislative meeting of a committee of eight depending on where they're coming from costs between $3000 and $4000.

Chairman Devlin asked if they wanted to schedule the next meeting together or meet separately. Rep. Bitney thought they should meet individually rather than collectively, because they have a lot of work to do before compounding the discussion. Ms. Cooney suggested they might like to examine some detail from other states on how they mitigate high priced housing etc. Chairman Devlin thought that would be a good idea.

Rep. Bitney asked about the game plan for converging on some solutions and perhaps a committee bill. He said the Chairman could get back to him on that.

Sen. Barkus wanted to request information on parcels of 20-acre single homes. He would like to see the appraised values as compared to realty transfer certificates. Ms. Cooney indicated the realty transfer certificate exempts 20 acres, but staff can gather some information. Sen. Barkus said his concern was with high-end homes and exempted twenty acre parcel high end homes. Chairman Devlin said they have looked at the non-qualified agricultural land issue in previous interim committees. That might tie into what other states are doing with non-qualified agricultural land and high-end homes. He imagined Idaho has a similar situation. Ms. Cooney indicated there are other states as well.

Sen. Story thought the legal folks needed be there to explain the constitutional requirements and the court cases. In regard to Sen. Barkus's concern, he thought their charge primarily is to look at the reappraisal system. The 20-acre issue is a classification problem and has been an issue since the last interim committee on reappraisal. He wanted the department to define the problem. Now that the reappraisal is done, and they know what everybody's appraised value is, how many people are in those groups that had significant increases. He wondered if it is as bad as was portrayed to them in some of the information they received in the last interim where some of the lots were going up huge amounts because of comparable sales in the neighborhood. He thought that could be quantified. He wanted to know the pool of people who have the problem that's driving this issue. During the last interim, the issue was people living next door to someone who paid a couple of million dollars for a lot. Now the tax has changed and it is a classification issue with the non-qualified agricultural landowners not paying their fair share. He wondered if the real problem is an appraisal issue or a classification issue.

Ms. Cooney stated Greg Petesch could come in and talk about the Constitution and case law. Sen. Stonington said she hoped they would focus on the reappraisal issue. She agreed it was good to collect that information and see where they are on taxable value, not just reappraisal values, and where it leaves them with the solution they put in place in the session. She'd hate to think they'd say they're a committee just involved in reappraisal so they can't follow that problem if it leads to a classification problem. She thought that non-qualified agricultural problem is one that is going to plague the state from now on.

Sen. Story said he didn't disagree with that, but thought the committee has to remember to separate those issues in their mind because they both create the same problems. People side by side pay different amount of taxes, which is the same thing they'd have with an acquisition value. People have figured out how to use the classification system to their benefit.

Sen. Stonington advised when they look at other states, she would like to look at the length of the cycle in other states and how legislatures in those states have dealt with it when it does create problems, costs, staffing needs, etc.

Ms. Cooney asked if they would like to look at the different ways other states approach their cycle. Sen. Stonington said yes. Ms. Cooney asked if they'd like to look at some other interim study committees from different states. Sen. Stonington favored Wyoming. Ms. Cooney said they would be passing out the information from the Wyoming Taxpayer Association. Sen. Stonington asked Ms. Whittinghill what brought that to her attention. Ms. Whittinghill said whenever she receives information she shares it with the department. It caught her attention because it's the same issue. Wyoming has high end property in the Jackson Hole area. They also have a length of residency requirement as well as means test.

Sen. Toole said related to the high-end property issue and increased valuation, he is interested in seeing if that property turns over less often or more often and if they can get an average. Mr. Fontana asked if that would be compared to typical properties like middle and low value. Sen. Toole said those of less increasing value.

Sen. Barkus agreed they were to focus on reappraisal, but one of the issues that had been plaguing a lot of them ever since SB 461 passed was the constitutionality of the income tax provision of that bill.

Chairman Devlin said that can be part of their legal discussions. The legal presentation will probably bring to mind more questions, one being the remedies being proposed and any problems those create. He wondered exactly what the Constitution requires as far as assessment and valuation. What they have done legislatively is to try to drive down the location cost with the exemption, etc. He wondered if they could, within the bounds of the Constitutional mandate for the reappraisal, set a flat fee or a sliding fee. They could have A, B, C and D properties with lots worth different amounts and then place full value on the structure. If the legislature has that direction then they can make some decisions and not worry about court challenges. Sen. Stonington asked if he wanted to look at options for different ways to deal with the land. Chairman Devlin said yes, because location is driving the cost. It's not the cost of the dirt; it's where the dirt is located.

Sen. Story advised the department has at least both ends of that already done. Mr. Simshaw did the work on taking the land clear out and what things look like when you do that. The other question has already been answered. For years agricultural land was done that way. There were three zones in irrigated land and depending on what climate land was in, there was a different value base. Everything is constitutional until somebody challenges it and it ends up in court. The presumption of the law is it's constitutional until it's proven unconstitutional. If nobody wants to challenge it remains law—nobody wants to take the elderly income credit to court.

Ms. Cooney suggested in addition to the legal, that they take a look at some alternatives in the valuation portion and follow the same format.

Chairman Devlin said when they talk about property taxes, a great deal of that stays locally. The amount the state gets is declining because they have a static mill levy. He requested figures on how much local property tax goes directly to the local school system and the local government. They don't want to lower the property value in some area and it is replaced with mills.

The committee decided the next meeting would be in November. Chairman Devlin said he would work with staff and poll the committee to determine a date. Since they are charged with meeting with the other study group, he said he would keep track of their progress and there would be some suggestions at the next meeting about when a joint meeting might be scheduled and what might be on the agenda.

Ms. Cooney advised the committee is charged with reporting to the other committee after every meeting. Staff will prepare a report and send it the committee members to look at it before they send it.

Chairman Devlin called the meeting to adjourn at 2:40 p.m.

Minutes read and approved by:

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Representative Ronald Devlin, Chair Date

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Senator Emily Stonington, Vice Chair Date